

## **PENSION FUNDING EQUITY ACT OF 2003**

### **January 22, 2004**

Mr. President, I rise in support of this piece of legislation. I join the Senator from Iowa, the chairman of the Finance Committee, along with the senior Senator from the Democratic party on my committee, Mr. Kennedy, and I believe Senator Baucus. We worked long and hard to address this issue--and it is a critical issue--of how we make sure the pension system in this country, or especially relating to defined benefit pensions, is maintained in a viable and strong way.

The pension system in this country is, regrettably, in trouble. But the amendment being offered today is designed to restore stability to the pension system and give us the time to solve the broad, difficult problems facing the pension system.

Last week, when the Pension Benefit Guaranty Corporation released its annual report outlining record losses, Labor Secretary Chao put the issue in proper perspective when she said:

While PBGC [Pension Benefit Guaranty Corporation] is not in crisis--the agency has sufficient assets to meet its obligations for a number of years into the future--it is clear that the financial integrity of the federal pension insurance system is at risk. It is equally clear that comprehensive reform of the nation's pension funding rules must be enacted to strengthen the financial health of the defined benefit pension system.

Time is the key thing here. That is why we need to legislate today. The amendment gives critical players the time they need in the area of reform to accomplish the changes necessary to get through this period in front of us.

There is in this bill a temporary interest rate fix which gives Congress time to review all of the options and make the right decisions on funding, reporting, and many other issues facing the troubled pension system. There is also in this bill something called the deficit reduction contribution relief area which gives airlines and steel companies the time they need to get their affairs in order after a unique and unusual period of pressure.

Further, there is reform in the area of the multiemployer pension system which will give relief to management and labor to get their agreements in order relative to collective bargaining in order to make sure those funds are solvent.

No one--Congress, employers, nor unions--is absolved of responsibility under this amendment. By granting time, we do not reduce--that should be stressed--anyone's debts nor allow anyone to avoid liability for debts they have voluntarily accepted.

What we do is provide the necessary breathing room so reforms and repayments are made in a responsible and manageable fashion and not under the threat of "the sky is falling" situations we confront today.

The amendment has essentially four elements, as I have outlined. First is reform of the 30-year Treasury note as being the vehicle by which we assess pension funding. Second is temporary relief for specific single-employer pension plans from deficit reduction contributions, such as airlines and steel. Third is a 2-year delay in the amortization of recent investment losses experienced by multiemployer pension plans and the imposition of significant improvements in the disclosure of information requirements of those plans to their participants, which is critical.

Turning to the interest rate fix issue, this is the key issue for me. I have spoken about this a number of times on this floor. In fact, back in May I said: Now is the time to address this. I guess ``now" has become now. But the fact is, we have today a system where 30-year Treasury bond rates are required in the current pension law for funding purposes.

We will replace that with a conservative rate pegged to the high-quality bond corporate basket. The reason for this is that 30-year bonds essentially do not exist anymore so we have an artificial rate under which we were requiring companies and pension funds to be funded. The practical effect of that was that the bond rate was artificially low, which meant the return on these funds was artificially low and the funding requirements became, unfortunately, in real terms, extraordinarily high and inconsistent with what a realistic rate would be.

By shifting to a corporate basket of high yield corporate bonds, we will correct this problem, significantly improve the viability of the pension system, and allow the corporations, for a period of 2 years, to use this temporary fix. It is a temporary fix.

Two years is a risk, I admit. Whether or not we can put in place the necessary law changes and reach agreement between the various players that are involved at the table, including the unions, corporations, and the guaranteed fund is a question. It is a short timeframe to resolve this issue. I would have preferred more time so we could be sure we would reach an accommodation and a timeframe that were realistic, but that is not what others wanted. It was not what we were able to accomplish. As we all know, legislating is sometimes the art of compromise, and in this instance that was the case.

So we have a 2-year hiatus using a basket of high yield corporate bonds as the new benchmark for funding. That will be positive relief, and it will mean, in practical terms, that funds which would have been artificially flowing into funding pension funds--and unnecessarily flowing into those funds as a result of having to use the low Treasury rate--will now be flowing into capital investment which translates directly into jobs. That is what this is about, protecting jobs and protecting pensions.

The second area is the deficit reduction contribution relief function. The amendment grants 2 years of relief to the airline and steel industries from mandatory deficit reduction contributions. Other companies may also apply to the Treasury Department for similar relief. Companies getting relief must remain current on their pension obligations and cannot increase the benefits that they create under their pension funds during this period.

Airlines are the main focus of the deficit reduction contribution relief. Airlines are the main focus because of the unique stress these companies have suffered. In recent years, profit pressures within the U.S. airline industry have been amplified by severe pricing competition, the recession, and, most importantly, by the effects of terrorism and the war in Iraq. Severe acute respiratory syndrome, SARS, also created pressure on the entire industry, especially those flying overseas.

The industry is in transition. The public has been reluctant to return since September 11 to the level of travel we had before September 11. Two airlines have already filed for bankruptcy protection. Others may follow suit. It is our intention with this amendment to ensure that pension rules are not the determining factor in selecting which airlines survive and which fail. We should not be kicking airlines over into bankruptcy on the issue of pensions. If that happens, it should be a function of their operating activity in the area of competing for passengers.

The PBGC is also concerned about the steel industry, especially two specific companies which have filed bankruptcy. Last year the agency absorbed the largest pension plan in its history when it trusteeed the Bethlehem Steel plan. Only a few steel company pension plans still exist.

The DRC portion of the amendment gives these plans in this troubled industry a chance to get their finances in order without the imminent threat of a takeover by the PBGC. The DRC provisions are important safeguards to the system and especially to the PBGC. Plans taking the relief must pay 20 percent of their obligation in the first year and 40 percent of their obligation the second year or the plan's expected current liability for the year, whichever is greater. This ensures that no plan will lose ground and become worse off than it was when we started this process. Plans that are funded at only 75 percent or less are also prohibited from increasing benefits during this 2-year moratorium. There is strict accountability. Furthermore, there has been talk of freezing the PBGC guarantee for these plans.

The multiple employer benefit plan relief is another area that this bill addresses. What the amendment does is allow plans to suspend amortizing their experience losses for 2 years. Multis may amortize experience losses over 15 years under current law. Multiemployer plans also would be required, under the amendment, to send annual notices to all participants disclosing the funding status of the plan. This is an important reform. It will mean that we will have transparency in multiemployer programs--something we don't have today--so employees can find out the status of their plans. This reform will have a very positive impact.

Without this relief, many companies participating in multiemployer plans will face significant taxes and monetary penalties. This is an attempt to address that problem over the next 2-year period. It is done as a result of pressure which we are seeing within the industry to move out of these types of plans and, in fact, abandon the field of pensions completely in the area of defined benefits plans.

We understand that if we do not reform these plans and their funding more substantively over the 2-year hiatus being granted to us, we will have lost a huge opportunity to make available to employees effective pension benefits.

Our goal is to make sure we don't arbitrarily force a number of employers out of the pension area simply because we have an artificial rate at which they have to fund their plans; that we don't create an atmosphere where, in the area of airlines and steel, we are essentially forcing these industries into bankruptcy because of their pension structure but, at the same time, not create an atmosphere where we unduly undermine their commitment to their pension structure; thirdly, not create an atmosphere where multiemployers basically abandon the field of pension activity and we end up with many employees not having the opportunity to participate in pensions.

That is our goal. Our basic goal is to assure that we have a viable pension system for our employees and the option, as part of that viable pension system, that we have a strong defined benefit element of the system. We know, regrettably, that as we came out of the period of the bubble of the 1990s, tremendous pressure was put on these different pension plans because of their investment experience. It was not unique to pension plans. Many American citizens who invested in the 1990s found the same problem. At the end of the 1990s, most of these plans were extremely solvent and strong. Today they are weak. They need this type of relief in order to get through this period.

We have been through this type of experience before. I point to the Chrysler bailout process as an example of how the Government, through intelligent approaches toward companies that are in stress, could maintain those industries and be sure that they work their way through the process during the hard times and, as we move back into a strong economy, have the opportunity to do the reform necessary to strengthen those plans so they get them back up to speed.

This is a much more logical approach than the haphazard, sky-is-falling approach of forcing the plans through reorganizations, through dramatic funding events that are artificially created through the interest rates or by making the plans much less attractive because the pension costs are so high.

So I think the bill makes sense. There is consensus on it and we should move forward with it.

Before I yield the floor, I thank the chairman of the Finance Committee for his commitment to this effort and the strong work of his staff in this area, and the cooperation which the Health, Education, Labor, and Pensions Committee has had on this effort.